

Form FOC 65

MOTION REGARDING PARENTING TIME

Use this form if:

- you have a pending case for divorce, separate maintenance, family support, or paternity; or
- you have a judgment of divorce or separate maintenance, a family support order, or an order regarding paternity but parenting time was not included; or
- you already have parenting time orders in your judgment of divorce or separate maintenance, your family support order, or your order regarding paternity **and** you want the court to either order parenting time or change parenting time.

MOTION CHECKLIST

Use the following checklist to make sure you have done all the steps that are needed.

DID YOU . . .

1. Fill out all requested information on the form? YES ☐
2. Make all necessary copies? YES ☐
3. Pay the motion fee to the clerk? YES ☐
4. Mail a copy of the motion on the other party and on any other custodian/guardian after the judge and hearing date were assigned to your case by the clerk? YES ☐
5. Return to the clerk's office **after** you mailed the motion and notice of hearing to the other party and completed the certificate of mailing? YES ☐
6. Keep one copy of the motion and notice of hearing form for yourself? YES ☐
7. Give 2 copies of the completed form to the clerk of the court? YES ☐

If you cannot answer "yes" to all of the above steps, a hearing on your motion may be delayed or your motion may be dismissed.

By using this form you are representing yourself in a court action regarding parenting time. In order to receive the action you seek, you must follow the instructions. If you fail to do even one of the required steps, the order you get from the court may not give you the parenting time you want.

If you have questions about any step in the process, read pages 3 through 5 for details.

**INSTRUCTIONS FOR USING FORM FOC 65
FILING A MOTION AND SERVING A MOTION**

»» FILING A MOTION

1. Fill out the Motion form.

Use the instructions on page 6. Type or print neatly. Be careful not to make mistakes.

Before filling out the "Notice of Hearing" part of the form, call the friend of the court office about getting a hearing date. You may not need a hearing if you and the other party have agreed to what you have in the motion. If you do need a hearing, fill in the form with the information you get about the hearing date and location of hearing and the name of the judge or referee who will be hearing the motion.

Make at least 5 copies of the form and all attachments after you have filled it out.

2. File the Motion form with the county clerk.

Take the 6 copies of the form and attachments to the county clerk in the county where your case is located.

You must pay a \$20.00 motion fee. If you can't afford to pay the motion fee, ask the county clerk for an Affidavit and Order, Suspension of Fees/Costs (Form MC 20) to fill out.

You should have the following copies when you leave the clerk's office:

- 1 Copy of FOC 65 (with any attachments) - for you
- 1 Copy of FOC 65 (with any attachments) - for other party
- 1 Copy of FOC 65 - for proof of service to the court
- 1 Copy of FOC 65 - for proof of service to the friend of the court

»» SERVING THE MOTION ON THE OTHER PARTY OR PARTIES

1. Serve the Motion and Notice of Hearing on the other party.

The other party must be notified of the motion and hearing date at least 9 weekdays (not including holidays) before the hearing date. Serve the papers by mailing them to the other party by regular, first class mail.

What you need:

- 1 Copy of FOC 65 (with any attachments) - for the other party
- 2 Copies of FOC 65 - for proof of service
- Any additional copies of FOC 65 (with any attachments) - for another custodian or guardian if there is someone other than the other parent who has care or custody of the child(ren).

Mail 1 copy with attachments to the other party. If there is a custodian or guardian, mail 1 copy and the attachments to them also. Fill out the Certificate of Mailing on the front of the remaining 3 copies.

2. Return to the county clerk.

Once you have mailed the motion and notice of hearing and filled out the certificate of mailing, return to the county clerk's office with 2 copies. Keep the other copy for your own records.

3. If the copy you sent to the other party is returned to you.

The hearing cannot be held until it can be proven to the court that both parties know about the hearing. If the other person's copy is returned to you, you must:

- Get the current address of the other person from the friend of the court or another source.
- If there are less than 9 days before the original hearing date, cancel the original hearing date and schedule a new one.
- Fill out another notice of hearing form.
- When a new address cannot be obtained, cancel the original hearing date which has been scheduled. Other ways of notifying the other party are listed in the Michigan Court Rules (MCR 2.106).

4. Response from other party.

If you receive a response to your motion from the other party, make sure you read it before you attend the hearing. Think about what you want to say on your behalf.

5. Attend the hearing.

You must attend the hearing on the motion.

»» INFORMATION ABOUT ATTENDING THE HEARING

Bring the 6 copies of the Order Regarding Parenting Time (Form FOC 67) with you to the hearing. Also bring all supporting papers you have and any witnesses who are willing to testify.

1. Since you are representing yourself, you are expected to conduct yourself as an attorney would and to follow the same general rules an attorney would.
2. Make a list of information you think is important for the referee or judge to know. The information should relate to the reasons stated in your motion. Use this list as a reminder to bring up important points.
3. If you need to order someone to attend this hearing, follow the procedure in Michigan Court Rule 2.506 or consult with an attorney.
4. Go to the judge's courtroom or referee's hearing room on the scheduled day and time. Dress neatly. Get there 10 or 15 minutes early. Be prepared to spend most of the morning or afternoon in court. Bring any witnesses with you.
5. Go into the courtroom or referee hearing room and tell the referee or clerk (sitting near the judge's bench) your name, you are there for a hearing, and you are representing yourself. Don't interrupt any hearing in progress. Take a seat in the back of the courtroom and wait for your case to be called. If you want to tape record the hearing, you must ask the judge or referee before the hearing starts.
6. When your case is called, go to the podium and clearly state the following:
 - 1) your name
 - 2) that you are representing yourself
 - 3) that you need a parenting time order or a change in a parenting time order
 - 4) the facts or reasons for your request (**bring papers such as reports that support your facts or reasons**)
 - 5) why you believe this order would be in the best interests of the child(ren)
 - 6) whether you have witnesses in court who are willing to testify

Answer the judge's or referee's questions clearly and directly. If the judge or referee wants to hear from the other witnesses, ask them to tell the court what they saw or know regarding your situation. Ask questions of the judge or referee if you don't understand what is being ordered.

7. If the other party is in court, he or she will have a chance to speak also. When the other party talks, take notes. Don't interrupt the other party. After the other party speaks, you will have another chance to talk. Taking notes will help you with this.
8. After the judge or referee makes a decision, follow the instructions for form FOC 67, "Order Regarding Parenting Time". You must prepare the order even if you don't get what you are asking.

NOTE: If your hearing was held before a referee and you do not agree with the referee's decision, you have 21 days from the date you receive the referee's recommendation to file an objection and request a hearing before the judge. Use form FOC 68, "Objection to Referee's Recommended Order."

INSTRUCTIONS FOR COMPLETING "MOTION REGARDING PARENTING TIME"

Please print neatly. After filling in the form, you will need to make at least 5 copies.

All items must be completed before your motion can be filed with the court. Please read the instruction for each item. Then fill in the correct information for that item on the form.

- Before you fill in the Case No., get your court papers for divorce, separate maintenance, family support, or paternity and copy the Case No. from those court papers onto this form.
- Also use your court papers to fill in the "Plaintiff" and "Defendant" boxes and if applicable, the "Third Party" box. Copy the names from these court papers onto this form. For example, if your name is in the box that says "plaintiff", then you should write your name in the "plaintiff" box on this motion form.
- You are the "moving party". Once you have written both names where they belong, you must check the box "moving party" in the same box as your name.
- **Item 1.** Check only one box. If you have a judgment or order for divorce, separate maintenance, or paternity, or family support, read it carefully to find out if there is any information in it about parenting time. If there is information about parenting time, check box a. If there is no information about parenting time, check box b.
- **Item 2.** State the causes that require a parenting time order or a change in parenting time. **Explain in as much detail** as possible why a parenting time order is needed or needs to be changed. You also need to explain why you think it is in the best interests of the child(ren) for the court to order this request. Use a separate sheet of paper. You will need 4 copies of this sheet to attach to this form.
- **Item 3.** You need to **explain in detail** what you want the court to order. Use a separate sheet of paper. You will need 4 copies of this sheet to attach to this form. **Check the box in item 3** if you and the other party have agreed about the parenting time.

Write in today's date and sign your name. Call the the friend of the court office in your county to find out how to get a hearing date. If the other party has agreed to sign the order, you may not need to schedule a hearing. See page 3 for details.

- **Notice of Hearing:** Once you get a hearing scheduled, fill in the full name of the judge or referee who will be hearing this motion, the date of the hearing, the time of the hearing (include whether it is a.m. or p.m.), and the place of the hearing.

Go to the county clerk's office with the 6 copies of this form and the 4 copies of each separate sheet. The clerk will return 4 copies to you.

- **Certificate of Mailing:** Read page 3 for details on mailing this form to the other party. On the date you mail 1 copy (and the separate sheets) to the other party, write in the date and sign your name on the remaining 3 copies.

Return to the county clerk with 2 copies. Read page 4 for details.

You must read the directions on the legal process.